

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on January 30, 2003, and the references cited therewith.

Claims 2, 5, 19 and 37 are amended, claim 8 is cancelled, and claims 38-40 are added; as a result, claims 1-8, 19-24, 27-35 and 37-40 are now pending in this application.

Affirmation of Election

Restriction to one of the following groups of claims was required.

I. Claims 1-8, 19-24, 27-35 and 37, drawn to an agricultural bagger apparatus, classified in class 53, subclass 530.

II. Claims 9-18, 25 and 26, drawn to a method for improving the flow of agricultural feed in an agricultural feed stock bagging machine, classified in class 53, subclass 459.

The election to Group 1 was made with the preliminary amendment filed by fax on January 17, 2003, which also cancelled claim 36, and amended claim 1 to depend on claim 19, and claim 27 to depend on claim 37. As provisionally elected with traverse by Applicants representative, Charles A. Lemaire, on January 17, 2003, Applicant elects to prosecute the invention of Group I, claims 1-8, 19-24, 27-35 and 37 and species of figure 3a and 9e, claims 1-8, 19-25, 27-35 and 37. Claim 36 was cancelled.

The claims of the non-elected invention, claims 9-18, 25 and 26, are cancelled. However, Applicant reserves the right to later file continuations or divisions having claims directed to the non-elected inventions.

Claim 8 is cancelled as being redundant to a limitation in claim 19.

Objection to Specification

The disclosure was objected to because of the following informalities:

Same part with different reference numbers: "primary compression mechanism 250" (page 13, lines 24-25 *should be 130 as in the Figure*) vs. "primary compression mechanism 130" (page 6, line 19); "feed 96" (page 6, line 17 *should be 98 as in the Figure*) vs. "feed 98" (page 6, line 20); Same reference number for different part: "hopper 139" (page 2, line 28 *should be 138 as in the Figure*) vs. "sloping wall 139" (page 6, line 18); and "chute 138" (page 15, line

5 should be hopper 138; since hopper and chute are used interchangeably) vs. "hopper 138"

(page 15, line 8). On page 17 line 29, the word "front" should be "from."

Appropriate correction has been made in the amendments above.

§112 Rejection of the Claims

Claim 33 was rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention--the Examiner said it was unclear what was the limitation. Applicant respectfully traverses. The means-plus-function claim limitation "means for directing the feed beyond an upper portion of the curvical motion in order that the feed is primarily swept at a lower portion of the curvical motions" refers to means such as cover 330 (shown and described in Figure 3A; page 8 lines 10-11; page 19 lines 19-21) and equivalents thereof. Cover 330 (and equivalents thereof) directs feed beyond the upper portions of the curvical motions of bars 304 and 306 so that the lower portions of the cervical motions move the feed to the primary compression mechanism. Applicant respectfully requests reconsideration and allowance of claim 33.

§102 Rejection of the Claims

Claims 8, 19, 21, 22, 24, 27-35 and 37 were rejected under 35 USC § 102(b) as being anticipated by Rasmussen et al. (U.S. 4,310,036). Applicant respectfully traverses (claim 8 is cancelled as redundant to a limitation in claim 19). Rasmussen et al. describes a bagger apparatus that includes a tunnel clean out plate 82 to pivot from a retracted position to an extended position thereby cleaning out substantially all of the silage trapped in the tunnel **after completion of the filling of bag 12** (see column 5 lines 8-32). If piston 88 were to activate and extend plate 86 while the primary compression mechanism were operating, substantial amounts of silage would accumulate behind plate 86, and thus Rasmussen teaches away from the present invention at column 5 lines 47-53, noting that in the retracted position (while the primary compression mechanism is operating) the lower edge of the plate is coincident with the top surface of the comb, thereby preventing silage from being forced behind cleanout plate 82 and decreasing the effective volume of tunnel 32. In fact, if Rasmussen's primary compression mechanism were operated while the cleanout plate were activated/extended, substantial amounts

Title: AGRICULTURAL BAGGER WITH UPPER TUNNEL COMPACTION AND CHUTE AGITATION

of feed would get trapped behind with no way to remove it and completely stopping filling of the bag. Further, the overall purpose of Rasmussen is to completely empty the tunnel, rather than to add pressure to the inner portion of the upper tunnel. In contrast, the present claimed invention displaces pressure within the tunnel from above the primary compression mechanism to a higher portion of the tunnel interior cavity during operation of the primary compression mechanism. (Claims 19 and 37 are amended solely to make this clearer.) This provides the important advantage of evening the pressure and compaction of the feed from the top to the bottom of the bag, rather than having much higher pressure and compaction at the lower feed levels compared to the upper levels. This is nowhere taught or suggested in the cited references. Accordingly, claims 19, 21, 22, 24, 27-35 and 37, as well as their respective dependent claims appear to be in condition for allowance. Reconsideration and allowance of these claims is respectfully requested.

§103 Rejection of the Claims

Claims 20 and 23 were rejected under 35 USC § 103(a) as being unpatentable over Rasmussen et al. (U.S. 4,310,036). Applicant respectfully traverses. For any Official Notice by the Examiner of equivalence, Applicant respectfully requests the Examiner provide a reference (MPEP 2144.03) supporting that position. Further, these claims depend on claim 19, which appears to be allowable for the reasons set forth above. Reconsideration and allowance of these claims is respectfully requested.

Claims 1-3 were rejected under 35 USC § 103(a) as being unpatentable over Rasmussen et al. (U.S. 4,310,036) in view of Goth (6,379,086).). Applicant respectfully traverses. Goth provides a motor 16 that is on a flat bottom of a hopper, not on the sloping wall. This motor loosens granular material, but the sloping walls of hopper 10 enlarge going down, so there can be no bridging of feed. Thus there is no motivation to combine with Rasmussen, since there is no bridging possible in Goth. Further, these claims depend on claim 19, which appears to be allowable for the reasons set forth above. Reconsideration and allowance of these claims is respectfully requested.

Claim 4 was also rejected under 35 USC § 103(a) as being unpatentable over Rasmussen et al. (U.S. 4,310,036) in view of Goth (U.S. 6,379,086).). Applicant respectfully traverses. Goth provides a single motor 16 that is on a flat bottom of a hopper, not on the sloping wall.

This motor loosens granular material across the entire bottom surface. There is no teaching of a second motor, nor any reason to provide one since the first motor and its arms 13 cover substantially that entire surface. Thus there is no motivation to combine with Rasmussen, nor any motivation for a second motor. Further, this claim depends on claim 19, which appears to be allowable for the reasons set forth above. Reconsideration and allowance of this claim is respectfully requested.

Allowable Subject Matter

Claims 5-7 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 5 has been rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 6-7 depend on claim 5. Reconsideration and allowance of these claims is respectfully requested.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612-373-6949) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date

30 April 2003

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 30 day of April 2003..

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